IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY THIRD DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HONOURABLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.21785 of 2001

Between:

1. B.Padma, W/o.B.Damodar, 54 years, R/o.3-4-132/1, Barkatpura, Hyderabad.

2. B.Jyothsna, W/o.B.Shailendra, 22 years, R/o.3-4-132/1, Barkatpura, Hyderabad.

...PETITIONERS

AND

1. Government of Andhra Pradesh, rep.by the Principal Secretary to Revenue Department, Secretariat Buildings, Hyderabad.

2. The District Collector, Hyderabad District, Hyderabad.

3. Mandal Revenue Officer, Marredpally Mandal, Secunderabad Cantonment, Secunderabad.

4. Municipal Corporation of Hyderabad, rep.by its Commissioner, Tank Bund Road, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction or writ particularly one in the nature of Writ of Mandamus declaring the action of the respondents in interfering with the rights of the petitioners in respect of petitioners' possession in H.No.10-3-20/5/3 & 10-3-20/5/11 respectively admeasuring 156 square yards & 147 square yards situated at Addagutta Slum (East Marredpally), Secunderabad without resorting to any procedure in law as

being illegal, arbitrary and unconstitutional and in breach of principles of natural justice and consequently direct the respondents not to interfere with in any manner by demolition, dispossession or otherwise with the petitioners rights over the said property except in accordance with law.

Counsel for the Petitioners: MR.S.NIRANJAN REDDY

Counsel for the Respondents: GP for Revenue for R1 to R4 and SMT.G.JYOTHI KIRAN for R4.

The Court made the following:

ORDER:

The two petitioners claim to be the owners of house Nos.10-3-20/5/3 & 10-3-20/5/11 respectively. They allege that they purchased the property under registered sale deeds and that the fourth respondent has also collected developmental charges. When the officials of the fourth respondent visited the premises of the petitioners and took measurements, apprehending that the respondents might demolish the structures constructed in the land in Survey No.74, they filed the present Writ Petition. They also allege that the first respondent instituted a case being L.G.C.No.167 of 1997 on the file of the Special Court under Land Grabbing (Prohibition) Act in respect of Survey No.74, but they have not initiated any action against the petitioners. They, therefore, pray for a Writ of Mandamus declaring the action of the respondents in interfering with the petitioners' property as illegal and unconstitutional. They also seek a consequential direction to the respondents not to interfere with the possession and not to demolish the structures.

This Court ordered *rule nisi* and by orders made in W.P.M.P.No.27434 of 2001 on 17.10.2001 passed interim orders directing the respondents not to interfere with the possession and not to demolish the houses of the petitioners.

One E.Bhagawan Das has come forward with two applications being W.P.M.P.No.8747 of 2004 for impleadment in the Writ Petition as respondent No.5 and W.V.M.P.(SR).No.35673 of 2004 for vacating the interim orders. The respondent Nos.2 and 3 have filed counter-affidavits opposing the Writ Petition. As the controversy is in a narrow compass, the matter itself is heard finally with the consent of the rival parties at the interlocutory stage.

In the counter-affidavit filed on behalf of respondent Nos.2 and 3, it is not denied that the petitioners are not parties to the L.G.C.No.167 of 1997. They also did not deny that the petitioners are having houses in Survey No.74. Therefore, if respondent Nos.2 and 3 need to take any action against the petitioners, they have to approach the Special Court under Land Grabbing (Prohibition) Act and obtain appropriate orders in L.G.C.No.167 of 1997 but they cannot high handedly demolish the structures of the petitioners. This equally applies to the fourth respondent. Insofar as E.Bhagawan Das is concerned, he is setting up title in himself claiming the land in Survey No.74/10. If that be so, nothing prevents him to approach the Special Court or Civil Court for declaration of a title. In this Writ Petition, E.Bhagawan Das cannot be made necessary party or proper party. Therefore these two applications are liable to be dismissed. The Writ Petition is disposed of giving liberty to respondent Nos.2

and 3 to approach the Special Court under Land Grabbing (Prohibition) Act and obtain appropriate orders against the petitioners.

The Writ Petition, with the above observations, is disposed of.

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(V.V.S.RAO, J)

23rd August 2004

RRB

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

Copy To:

1. The Principal Secretary to Revenue Department, Government of Andhra Pradesh, Secretariat Buildings, Hyderabad.
2. The District Collector, Hyderabad District, Hyderabad.
3. The Mandal Revenue Officer, Marredpally Mandal, Secunderabad Cantonment, Secunderabad.
4. The Commissioner, Municipal Corporation of Hyderabad, Tank Bund Road, Hyderabad.
5. Two CCs to G.P. for Revenue, High Court Buildings, Hyderabad (OUT).
6. Two CD copies.